



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,775	02/20/2004	Franz Maser	G80-042US	6673
21706 7590 12/14/2007 NOTARO AND MICHALOS 100 DUTCH HILL ROAD SUITE 110 ORANGEBURG, NY 10962-2100			EXAMINER LEE, EDMUND H	
			ART UNIT 1791	PAPER NUMBER
			MAIL DATE 12/14/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/783,775

Applicant(s)

MASER ET AL.

Examiner

EDMUND H. LEE

Art Unit

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/9/07</u> . | 6) <input type="checkbox"/> Other: _____ |

Application/Control Number:
10/783,775
Art Unit: 1791

Page 2

DETAILED ACTION

1. The examiner of record has changed from M. Daniels to Edmund Lee.
2. The information disclosure statement filed 8/9/07 fails to comply with 37 CFR 1.98(a)(3), because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered. The foreign references are not in English so their relevance is not understood.
3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. Claims 12 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Devro (WO 95/04102) in view of Sinibaldo (USPN 3779285) as set forth in the Office action mailed 5/18/07.
5. Claims 12 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Devro (WO 95/04102) in view of Sinibaldo (USPN 3779285) and Andriash (USPN 5550346) as set forth in the Office action mailed 5/18/07.

Application/Control Number:
10/783,775
Art Unit: 1791

Page 3

6. Claims 12 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Devro (WO 95/04102) in view of Sinibaldo (USPN 3779285) and further in view of Andriash (USPN 5550346) as set forth in the Office action mailed 5/18/07.

7. Applicant's arguments filed 8/9/07 have been fully considered but they are not persuasive. Applicant argues that there is no motivation to combine the teachings of Devro and Sinibaldo because Sinibaldo refers to tubular food casings of cellulose whereas Devro is directed towards flat film food wrappings of collagen. This argument is misplaced because the step of puncturing of Sinibaldo is performed on a flattened tubular casing, i.e. the casing of Sinibaldo is a flat film when punctured. The instant claims do not exclude the puncturing of a flattened tubular casing. In regard to using cellulose instead of collagen, Sinibaldo's use of cellulose is not critical to its process since neither patented claim 1 is limited to a cellulosic casing nor a statement of criticality is found in the disclosure. Since there is no criticality associated with using a cellulosic casing, it can be assumed by one of ordinary skill in the art at the teachings of Sinibaldo can be applied to any well-known food casing material. Furthermore, applicant should note that Sinibaldo was provided to illustrate the obviousness of a food wrapping material having holes spaced at the claimed distance. Since Sinibaldo teaches holes having the claimed spacing, it would have been obvious and within the technical grasp of one of ordinary skill to choose making holes having the spacing taught by Sinibaldo from the finite number of identified, predictable spacings in order to enhance venting of the film.

Application/Control Number:
10/783,775
Art Unit: 1791

Page 4

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. EP 0845336A1 teaches making holes in a flattened tubular casing wherein the holes are made within the instant claimed distance, and using a casing of any well-known food wrapping material.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDMUND H. LEE whose telephone number is 571.272.1204. The examiner can normally be reached on MONDAY-THURSDAY FROM 9AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on 571.272.1176. The fax phone

Application/Control Number:
10/783,775
Art Unit: 1791


Page 5

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EDMUND H. LEE
Primary Examiner
Art Unit 1791

EHL


12/11/04